

Adopted	Rejected
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COMMITTEE REPORT

YES:	11
NO:	0

MR. SPEAKER:

Your Committee on **Financial Institutions**, to which was referred Senate Bill 501, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 4-4-34 IS ADDED TO THE INDIANA CODE AS
- 4 A **NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY**
- 5 **1, 2009]:**
- 6 **Chapter 34. Small Business Loan Program**
- 7 **Sec. 1. As used in this chapter, "authority" means the Indiana**
- 8 **finance authority created by IC 4-4-11-4.**
- 9 **Sec. 2. As used in this chapter, "financial institution" means any**
- 10 **bank, trust company, corporate fiduciary, savings association,**
- 11 **credit union, savings bank, bank of discount and deposit, or**
- 12 **industrial loan and investment company that is:**
- 13 **(1) organized or reorganized under the laws of this state; or**
- 14 **(2) organized or reorganized under the laws of the United**
- 15 **States and has its headquarters in Indiana.**
- 16 **The term includes a consumer finance institution licensed to make**

1 supervised or regulated loans under IC 24-4.5.

2 Sec. 3. As used in this chapter, "fund" means the small business
3 loan fund established by section 7 of this chapter.

4 Sec. 4. As used in this chapter, "participating financial
5 institution" means a financial institution approved by the authority
6 to participate in the small business loan program authorized by
7 this chapter.

8 Sec. 5. As used in this chapter, "small business" means any
9 person, firm, corporation, limited liability company, partnership,
10 or association that:

- 11 (1) is actively engaged in business in Indiana and maintains its
- 12 principal place of business in Indiana;
- 13 (2) is independently owned and operated;
- 14 (3) employs not more than one hundred (100) full-time
- 15 employees; and
- 16 (4) has gross annual receipts of not more than five million
- 17 dollars (\$5,000,000).

18 Sec. 6. As used in this chapter, "small business development
19 project" refers to a small business start up or expansion project
20 that proposes to create new jobs in Indiana.

21 Sec. 7. (a) There is established the small business loan fund. The
22 fund shall be administered by the authority under the direction of
23 the authority's board. Money in the fund must be used for the
24 purposes of this chapter.

25 (b) The fund consists of the following resources:

- 26 (1) Appropriations from the general assembly.
- 27 (2) Gifts, grants, and donations of any tangible or intangible
- 28 property from public or private sources.
- 29 (3) Investment income earned on the fund's assets.
- 30 (4) Repayments of loans from the fund.

31 (c) The treasurer of state shall invest the money in the fund not
32 currently needed to meet the obligations of the fund in the same
33 manner as other public funds may be invested.

34 (d) The money remaining in the fund at the end of a fiscal year
35 does not revert to the state general fund.

36 (e) Interest earned on the fund may be used by the authority to
37 pay expenses incurred in the administration of the fund.

38 Sec. 8. A financial institution that wishes to participate in the

small business loan program established by this chapter shall apply to the authority for the authority's approval. A financial institution may not participate in the program until the financial institution's application is approved. The authority shall publish and maintain a list of participating financial institutions on the authority's Internet web site.

Sec. 9. (a) A small business that wishes to obtain a loan under this chapter must submit an application to a participating financial institution on a form prescribed by the authority. The application must describe the small business development project for which the small business will use a loan received under this chapter.

(b) A small business may not receive a loan under this chapter unless the participating financial institution to which the small business submitted the application required by subsection (a):

(1) approves the application submitted by the small business; and

(2) applies for and receives a deposit of money transferred from the fund that must be used to provide the loan.

(c) A participating financial institution must approve an application submitted under subsection (a) or inform the applicant that the application has been rejected by the participating financial institution not more than fifteen (15) days after the date the application is submitted.

(d) In determining whether to approve an application submitted under subsection (a), the participating financial institution shall evaluate the application using guidelines and criteria developed by the entity responsible for carrying out the duties of the Indiana economic development corporation under IC 5-28-17 concerning small business development.

Sec. 10. A participating financial institution that approves an application submitted under section 9 of this chapter for a small business development project shall apply to receive a deposit under this chapter by submitting to the authority:

(1) a copy of the approved application; and

(2) any additional information required by the authority on a form prescribed by the authority.

Sec. 11. The authority shall establish a program review committee to review each application received from a participating

1 financial institution under section 10 of this chapter. The
 2 committee must consider the following before making a
 3 recommendation to the authority concerning the small business
 4 development project for which the participating financial
 5 institution has applied for a deposit:

6 (1) Whether the proposed small business development project
 7 is economically sound and will benefit the people of Indiana
 8 by increasing opportunities for employment in Indiana and
 9 strengthening the economy of Indiana.

10 (2) Whether receiving a loan under this chapter is a major
 11 factor in the small business owner's decision to go forward
 12 with the project and not receiving the loan will result in the
 13 small business not creating new jobs in Indiana.

14 Sec. 12. Upon the recommendation of the program review
 15 committee approving a small business development project, the
 16 authority may transfer money from the fund to the participating
 17 financial institution for deposit. Interest payable to the authority
 18 on money deposited in the financial institution under this section
 19 may not exceed the difference between:

20 (1) the interest rate for fifty-two (52) week United States
 21 Treasury bills, as in effect on the day of the deposit; minus

22 (2) one and five-tenths percent (1.5%).

23 Sec. 13. (a) A participating financial institution that receives
 24 money for deposit under section 12 of this chapter must use the
 25 money to provide a low interest loan to the owner of the small
 26 business who must use the loan for purposes permitted by section
 27 14 of this chapter. A participating financial institution that makes
 28 a loan under this chapter may not charge an interest rate to the
 29 owner of the small business that exceeds:

30 (1) the interest rate payable to the authority under section 12
 31 of this chapter; plus

32 (2) three percent (3%).

33 (b) A participating financial institution and the owner of a small
 34 business that receives a loan under this chapter shall enter a loan
 35 agreement that must include the following:

36 (1) A requirement that the loan proceeds be used for specified
 37 purposes consistent with the requirements of this chapter.

38 (2) The term of the loan, which may not be greater than

1 twenty (20) years.

2 (3) The repayment schedule.

3 (4) The interest rate of the loan.

4 (5) Any other terms and provisions that the authority or
5 financial institution requires.

6 (c) A loan agreement under this section may also contain:

7 (1) a requirement that the loan be insured directly or
8 indirectly by a loan insurer or be guaranteed by a loan
9 guarantor; and

10 (2) a requirement of any other type or types of security or
11 collateral that the authority or financial institution considers
12 reasonable or necessary.

13 Sec. 14. The owner of a small business may use the proceeds of
14 a loan received under this chapter for one (1) or more of the
15 following purposes:

16 (1) To purchase real property.

17 (2) To construct, renovate, or expand a building.

18 (3) To purchase equipment, furniture, fixtures, or inventory.

19 (4) Working capital purposes.

20 Sec. 15. The maximum amount of a deposit made under section
21 12 of this chapter for a particular small business development
22 project is one million dollars (\$1,000,000).

23 Sec. 16. (a) The authority shall, following the close of each state
24 fiscal year, submit an annual report of its activities under this
25 chapter for the preceding state fiscal year to the governor, the
26 budget committee, and the general assembly. A report submitted
27 to the general assembly must be in an electronic format under
28 IC 5-14-6. The governor shall forward a copy of the report to the
29 entity responsible for carrying out the duties of the Indiana
30 economic development corporation under IC 5-28-17 concerning
31 small business development.

32 (b) Beginning November 1, 2010, and before November 1 of
33 each succeeding year, the entity responsible for carrying out the
34 duties of the Indiana economic development corporation under
35 IC 5-28-17 concerning small business development shall:

36 (1) review the report submitted under subsection (a);

37 (2) evaluate the effectiveness of the small business loan
38 program; and

(3) submit its findings to the governor, the budget committee, the authority, and the general assembly.

A report submitted to the general assembly must be in an electronic format under IC 5-14-6.

Sec. 17. (a) An obligation of the authority for losses on loans resulting from death, default, bankruptcy, or total or permanent disability of borrowers is not a debt of the state but is payable solely from the fund.

(b) The making of loans from money transferred from the fund does not constitute the lending of credit by the state for purposes of any other statute or the Constitution of the State of Indiana.

SECTION 2. IC 5-20-7 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 7. Microenterprise Partnership Program Fund

Sec. 1. As used in this chapter, "authority" refers to the Indiana housing and community development authority created under IC 5-20-1-3.

Sec. 2. As used in this chapter, "federal income poverty level" means the nonfarm income official poverty line as determined annually by the federal Office of Management and Budget.

Sec. 3. As used in this chapter, "fund" refers to the microenterprise partnership program fund established by section 8 of this chapter.

Sec. 4. As used in this chapter, "local board" means the:

(1) governing body of an eligible entity described in section 13 of this chapter; or

(2) board of directors of a corporation described in section 14 of this chapter.

Sec. 5. As used in this chapter, "local pool" includes both a local investment pool established under section 13 of this chapter and a local opportunity pool established under section 14 of this chapter.

Sec. 6. As used in this chapter, "nontraditional entrepreneur" means a person who operates or seeks to establish a business in Indiana and who is described in one (1) or more of the following categories:

(1) Persons whose employment has been terminated or who have been laid off and who have limited opportunities for

employment or reemployment in the same or a similar occupation in the area in which they reside.

(2) Persons who are employed but whose family income is not greater than one hundred twenty-five percent (125%) of the federal income poverty level for the same size family.

(3) Single parents whose family income is not greater than one hundred twenty-five percent (125%) of the federal income poverty level for the same size family.

(4) Minorities.

(5) Women.

(6) Persons who are at least sixty-five (65) years of age.

(7) Persons who are at least eighteen (18) years of age but less than twenty-four (24) years of age.

(8) Welfare recipients.

(9) Owners or operators of existing businesses with less than twenty-five (25) employees.

(10) Persons who by reason of physical or mental disability are unable to achieve full vocational participation.

(11) Members of family farms undergoing economic adjustment and seeking sources of income in addition to the farm.

Sec. 7. (a) The general assembly makes the following findings of fact:

(1) There exists in Indiana an inadequate amount of locally managed, pooled investment capital in the private sector available to invest in new and existing business ventures, including business ventures by nontraditional entrepreneurs.

(2) Investing capital and business management advice in new and existing business ventures, including business ventures by nontraditional entrepreneurs, will enhance economic development and create and retain employment in Indiana.

This investment will enhance the health and general welfare of the people of Indiana, and it constitutes a public purpose.

(3) Nontraditional entrepreneurs have not engaged in entrepreneurship and self-employment to the extent found in the mainstream of Indiana's population. Realizing the potential of these nontraditional entrepreneurs will enhance Indiana's economic vitality.

(b) It is the policy of the state to promote economic development and entrepreneurial talent of Indiana's inhabitants by the creation of the microenterprise partnership program fund for the public purpose of promoting opportunities for gainful employment and business opportunities.

Sec. 8. (a) The microenterprise partnership program fund is established within the state treasury. The fund is a revolving fund to:

- (1) provide loans approved by the authority under this chapter and IC 5-20-8;
- (2) carry out the microenterprise partnership program under IC 5-20-9; and
- (3) provide loans or loan guarantees under the small and minority business financial assistance program established by IC 5-20-10-9.

(b) The fund consists of appropriations from the general assembly and loan repayments.

(c) The authority shall administer the fund. The following may be paid from money in the fund:

- (1) Expenses of administering the fund.
- (2) Nonrecurring administrative expenses incurred to carry out the purposes of this chapter, IC 5-20-9, and IC 5-20-10.

(d) Earnings from loans made under this chapter shall be deposited in the fund.

(e) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public funds may be invested. Interest that accrues from these investments shall be deposited in the state general fund.

(f) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

(g) The fund is subject to an annual audit by the state board of accounts. The fund shall bear the full costs of the audit.

Sec. 9. (a) The authority shall perform the following duties:

- (1) Establish and implement the policies and procedures to be used by the authority in the administration of the fund.
- (2) Subject to section 11 of this chapter, establish criteria for awarding loans from the fund.

(3) Review and approve or disapprove applications for loans from the fund.

(4) Establish the terms of loans from the fund, which must include the conditions set forth in section 12 of this chapter.

(5) Award the loans approved under this chapter.

(6) Provide the staff and other resources necessary to implement this chapter.

(7) Prepare and distribute to appropriate entities throughout Indiana requests for proposals for the organization and operation of local pools.

(8) Conduct conferences and seminars concerning the fund.

(9) Submit a report concerning the fund to the general assembly before November 1 of each year. The report must include detailed information concerning the structure, operation, and financial condition of the fund. The report must be in an electronic format under IC 5-14-6.

(b) The authority may enter into contracts necessary for the administration of this chapter, including contracts for servicing loans from the fund.

Sec. 10. A local board may apply for a loan from the fund. A local board's application for a loan must include the following information:

(1) The total amount of the loan requested from the fund.

(2) The total amount of matching funds to be provided from the local pool operated by the local board and the sources of those matching funds.

(3) A detailed description of the local pool, including its investment criteria.

(4) The impact of the proposed loan on job production in the area served by the local pool.

(5) Any other information requested by the authority.

Sec. 11. The authority's criteria for awarding loans from the fund to a local board must include the following factors:

(1) The extent to which local financial institutions invest and participate in the local pool.

(2) The extent to which the local pool is used as a secondary source of financing that complements conventional financing provided by existing financial institutions.

1 **(3) The local board's knowledge of successful business**
 2 **practices.**

3 **(4) The extent to which the local board will target the**
 4 **proceeds of the loan toward nontraditional entrepreneurs.**

5 **(5) The extent to which the local board intends to use the loan**
 6 **proceeds for investment in debt, equity, debt with equity**
 7 **attributes, or other forms of creative financing.**

8 **(6) The extent to which the local board's proposed program**
 9 **will encourage clustering of small business programs through**
 10 **proximity to small business incubators and other sources of**
 11 **small business assistance and technology transfer.**

12 **(7) Other criteria established by the authority.**

13 **Sec. 12. A loan from the fund to a local board is subject to the**
 14 **following conditions:**

15 **(1) The local board may use the loan from the fund only to**
 16 **make and service grants, equity investments, loans, and loan**
 17 **guarantees to persons who are establishing or operating**
 18 **businesses in Indiana. However, the local board may not**
 19 **spend any part of the loan from the fund to defray the**
 20 **expenses of servicing grants, loans, and loan guarantees unless**
 21 **that expenditure is specifically authorized in the loan**
 22 **agreement with the authority.**

23 **(2) The term of the loan may not exceed twenty (20) years.**

24 **(3) The loan must require the local board to provide matching**
 25 **funds in an amount determined by the authority. However,**
 26 **the total of the loan plus the matching funds must be at least:**

27 **(A) one million dollars (\$1,000,000) for a local investment**
 28 **pool established under section 13 of this chapter; or**

29 **(B) five hundred thousand dollars (\$500,000) for a local**
 30 **opportunity pool established under section 14 of this**
 31 **chapter.**

32 **(4) The authority may forgive or defer payment of all or part**
 33 **of the interest and principal on the loan.**

34 **(5) The loan agreement must require the local board, through**
 35 **its staff or consultants, to perform the following duties with**
 36 **respect to recipients of financial assistance from the local**
 37 **pool:**

38 **(A) Provide training in business and financial management**

1 techniques.

2 (B) Oversee the fiscal operations of the recipients of
3 financial assistance for at least one (1) year following the
4 receipt of that assistance.

5 (C) Provide fiscal management assistance to recipients of
6 financial assistance when necessary for at least one (1) year
7 following the receipt of the assistance, including assistance
8 in the preparation and filing of federal and state tax
9 returns.

10 (6) The local board must make a report concerning the local
11 pool to the authority before September 1 of each year. The
12 report must include detailed information concerning the
13 structure, operation, and financial condition of the local pool.

14 (7) Any other conditions that the authority considers
15 appropriate.

16 Sec. 13. (a) As used in this section, "eligible entity" means any
17 partnership, unincorporated association, corporation, or limited
18 liability company, whether or not operated for profit, that is
19 established for the purpose of establishing a local investment pool.

20 (b) A local investment pool may be established only by an
21 eligible entity. A political subdivision may participate in the
22 establishment of an eligible entity but may not be the sole member
23 of the eligible entity.

24 (c) The articles of incorporation or bylaws of the eligible entity,
25 as appropriate, must provide the following:

26 (1) The exclusive purpose of the eligible entity is to establish
27 a local investment pool to:

28 (A) attract private equity investment to provide grants,
29 equity investments, loans, and loan guarantees for the
30 establishment or operation of businesses in Indiana; and

31 (B) provide a low to moderate rate of return to investors in
32 the short term, with higher rates of return in the long
33 term.

34 (2) The governing body of the eligible entity must include:

35 (A) persons who are qualified by professional background
36 and business experience to make sound financial and
37 investment decisions in the private sector; and

38 (B) representatives of nontraditional entrepreneurs.

(3) The eligible entity may receive funds from:

- (A) equity investors;**
- (B) grants and loans from local units of government;**
- (C) grants and loans from the federal government;**
- (D) donations; and**
- (E) loans from the fund.**

Sec. 14. (a) A local opportunity pool may be established only by a nonprofit corporation or a for-profit corporation established for that purpose. A political subdivision may participate in the establishment of such a corporation but may not be the sole member of the corporation.

(b) The articles of incorporation or bylaws of a corporation described in subsection (a), as appropriate, must provide the following:

(1) The exclusive purpose of the corporation described in subsection (a) is to establish a local opportunity pool to:

- (A) attract sources of funding other than private equity investment to provide grants, loans, and loan guarantees for the establishment or operation of nontraditional entrepreneurial endeavors in Indiana; and**
- (B) enter into financing agreements that seek the return of the principal amounts advanced by the pool, with the potential for a greater return.**

(2) The board of directors of the corporation described in subsection (a) must include:

- (A) persons who are actively engaged in Indiana in private enterprise, organized labor, or state or local governmental agencies and who are qualified by professional background and business experience to make sound financial and investment decisions in the private sector; and**
- (B) representatives of nontraditional entrepreneurs.**

(3) The corporation described in subsection (a) may receive funds from:

- (A) philanthropic foundations;**
- (B) grants and loans from local units of government;**
- (C) grants and loans from the federal government;**
- (D) donations;**
- (E) bequests; and**

1 (F) loans from the fund.

2 **Sec. 15. The making of loans from the fund does not constitute**
 3 **the lending of credit by the state for purposes of any other statute**
 4 **or the Constitution of the State of Indiana.**

5 SECTION 3. IC 5-20-8 IS ADDED TO THE INDIANA CODE AS
 6 A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
 7 1, 2009]:

8 **Chapter 8. Small Business Development**

9 **Sec. 1. As used in this chapter, "authority" refers to the Indiana**
 10 **housing and community development authority created under**
 11 **IC 5-20-1-3.**

12 **Sec. 2. (a) The authority shall do the following to carry out this**
 13 **chapter:**

14 (1) **Contribute to the strengthening of the economy of Indiana**
 15 **by encouraging the organization and development of new**
 16 **business enterprises, including technologically oriented**
 17 **enterprises.**

18 (2) **Submit an annual report to the governor and to the**
 19 **general assembly not later than November 1 of each year. The**
 20 **annual report must:**

21 (A) **include detailed information on the structure,**
 22 **operation, and financial status of the authority; and**

23 (B) **be in an electronic format under IC 5-14-6.**

24 **The authority shall conduct an annual public hearing to**
 25 **receive comment from interested parties regarding the annual**
 26 **report, and notice of the hearing shall be given at least**
 27 **fourteen (14) days before the hearing in accordance with**
 28 **IC 5-14-1.5-5(b).**

29 (3) **Approve and administer loans from the microenterprise**
 30 **partnership program fund established by IC 5-20-7.**

31 (4) **Conduct activities for nontraditional entrepreneurs under**
 32 **IC 5-20-7.**

33 (5) **Establish and administer the microenterprise partnership**
 34 **program under IC 5-20-9.**

35 (6) **Establish and administer the small and minority business**
 36 **financial assistance program under IC 5-20-10.**

37 (b) **The authority may do the following to carry out this**
 38 **chapter:**

(1) Receive money from any source, enter into contracts, and expend money for any activities appropriate to its purpose.

(2) Do all other things necessary or incidental to carrying out the authority's functions under this chapter.

(3) Establish programs to identify entrepreneurs with marketable ideas and to support the organization and development of new business enterprises, including technologically oriented enterprises.

(4) Conduct conferences and seminars to provide entrepreneurs with access to individuals and organizations with specialized expertise.

(5) Establish a statewide network of public, private, and educational resources to assist the organization and development of new enterprises.

(6) Operate a small business assistance center to provide small businesses, including minority owned businesses and businesses owned by women, with access to managerial and technical expertise and to provide assistance in resolving problems encountered by small businesses.

(7) Cooperate with public and private entities, including the Indiana Small Business Development Center Network and the federal government marketing program, in exercising the powers listed in this subsection.

(8) Establish and administer the small and minority business financial assistance program under IC 5-28-10.

(9) Approve and administer loans from the microenterprise partnership program fund established by IC 5-20-7.

(10) Coordinate state funded programs that assist the organization and development of new enterprises.

Sec. 3. Debts incurred by the small business development corporation under authority of IC 4-3-12 (before its repeal) do not represent or constitute a debt of the state within the meaning of the Constitution of the State of Indiana or Indiana statutes. The authority may not incur debt under this chapter. However, the authority shall assume the debt of the small business development corporation that is outstanding on the date the small business development corporation is abolished.

SECTION 4. IC 5-20-9 IS ADDED TO THE INDIANA CODE AS

A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 9. Microenterprise Partnership Program

Sec. 1. As used in this chapter, "authority" refers to the Indiana housing and community development authority created under IC 5-20-1-3.

Sec. 2. As used in this chapter, "microenterprise" means a business with fewer than five (5) employees. The term includes startup, home based, and self-employed businesses.

Sec. 3. As used in this chapter, "microloan" means a business loan of not more than twenty-five thousand dollars (\$25,000).

Sec. 4. As used in this chapter, "microloan delivery organization" means a community based or nonprofit program that:

- (1) has developed a viable plan for providing training, access to financing, and technical assistance to microenterprises; and
- (2) meets the criteria and qualifications set forth in this chapter.

Sec. 5. As used in this chapter, "operating costs" refers to the costs associated with administering a loan or a loan guaranty, administering a revolving loan program, or providing for business training and technical assistance to a microloan recipient.

Sec. 6. As used in this chapter, "program" refers to the microenterprise partnership program established under section 7 of this chapter.

Sec. 7. (a) The authority shall establish the microenterprise partnership program to provide grants to microloan delivery organizations.

(b) A grant provided under subsection (a) may not exceed twenty-five thousand dollars (\$25,000).

(c) A microloan delivery organization receiving a grant under this section must use the grant for the purposes set forth in this chapter.

Sec. 8. To establish the criteria for making a grant to a microloan delivery organization, the authority shall consider the following:

- (1) The microloan delivery organization's plan for providing business development services and microloans to

1 **microenterprises.**

2 **(2) The scope of services provided by the microloan delivery**
3 **organization.**

4 **(3) The microloan delivery organization's plan for**
5 **coordinating the services and loans provided under this**
6 **chapter with those provided by commercial lending**
7 **institutions.**

8 **(4) The geographic representation of all regions of Indiana,**
9 **including both urban and rural communities and**
10 **neighborhoods.**

11 **(5) The microloan delivery organization's emphasis on**
12 **supporting female and minority entrepreneurs.**

13 **(6) The ability of the microloan delivery organization to**
14 **provide business training and technical assistance to**
15 **microenterprises.**

16 **(7) The ability of the microloan delivery organization to**
17 **monitor and provide financial oversight of recipients of**
18 **microloans.**

19 **(8) The sources and sufficiency of the microloan delivery**
20 **organization's operating funds.**

21 **Sec. 9. A grant received by a microloan delivery organization**
22 **may be used for the following purposes:**

23 **(1) To satisfy matching fund requirements for federal or**
24 **private grants.**

25 **(2) To establish a revolving loan fund from which the**
26 **microloan delivery organization may make loans to**
27 **microenterprises.**

28 **(3) To establish a guaranty fund from which the microloan**
29 **delivery organization may guarantee loans made by**
30 **commercial lending institutions to microenterprises.**

31 **(4) To pay the operating costs of the microloan delivery**
32 **organization. However, not more than ten percent (10%) of**
33 **a grant may be used for this purpose.**

34 **Sec. 10. Money appropriated to the program must be matched**
35 **by at least an equal amount of money derived from any of the**
36 **following nonstate sources:**

37 **(1) Private foundations.**

38 **(2) Federal sources.**

1 **(3) Local government sources.**

2 **(4) Quasi-governmental entities.**

3 **(5) Commercial lending institutions.**

4 **(6) Any other source whose funds do not include money**
 5 **appropriated by the general assembly.**

6 **Sec. 11. At least fifty percent (50%) of the microloan money**
 7 **disbursed by a microloan delivery organization must be disbursed**
 8 **in microloans that do not exceed ten thousand dollars (\$10,000).**

9 **Sec. 12. The authority may prescribe standards, procedures,**
 10 **and other guidelines to implement this chapter.**

11 **Sec. 13. The authority may use money in the microenterprise**
 12 **partnership program fund established by IC 5-20-7-7 or any other**
 13 **money available to the authority to carry out this chapter.**

14 **Sec. 14. Before August 1 of each year, the authority shall submit**
 15 **to the budget committee a supplemental report on a longitudinal**
 16 **study:**

17 **(1) describing the economic development outcomes resulting**
 18 **from microloans made under this chapter; and**

19 **(2) evaluating the effectiveness of the microloan delivery**
 20 **organizations and the microloans made under this chapter in:**

21 **(A) expanding employment and self-employment**
 22 **opportunities in Indiana; and**

23 **(B) increasing the incomes of persons employed by**
 24 **microenterprises.**

25 **SECTION 5. IC 5-20-10 IS ADDED TO THE INDIANA CODE AS**
 26 **A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY**
 27 **1, 2009]:**

28 **Chapter 10. Small and Minority Business Financial Assistance**
 29 **Program**

30 **Sec. 1. As used in this chapter, "authority" refers to the Indiana**
 31 **housing and community development authority created under**
 32 **IC 5-20-1-3.**

33 **Sec. 2. As used in this chapter, "approved lender" means any:**

34 **(1) lending institution; or**

35 **(2) bank, trust company, building and loan association, or**
 36 **credit union;**

37 **that is approved by the authority as a lender under this chapter.**

38 **Sec. 3. As used in this chapter, "fund" refers to the**

1 microenterprise partnership program fund established by
2 IC 5-20-7-7.

3 Sec. 4. As used in this chapter, "loan" means a direct loan from
4 the fund.

5 Sec. 5. As used in this chapter, "minority business" means an
6 individual, a partnership, a corporation, a limited liability
7 company, or a joint venture of any kind that is owned and
8 controlled by one (1) or more persons who are:

- 9 (1) United States citizens; and
- 10 (2) members of a minority group.

11 Sec. 6. As used in this chapter, "minority group" means:

- 12 (1) blacks;
- 13 (2) American Indians;
- 14 (3) Hispanics;
- 15 (4) Asian Americans; and
- 16 (5) other similar racial minority groups.

17 Sec. 7. As used in this chapter, "owned and controlled" means
18 having:

- 19 (1) ownership of at least fifty-one percent (51%) of the
- 20 enterprise, including corporate stock of a corporation;
- 21 (2) control over the management and being active in the day
- 22 to day operations of the business; and
- 23 (3) an interest in the capital, assets, and profits and losses of
- 24 the business proportionate to the percentage of ownership.

25 Sec. 8. As used in this chapter, "program" refers to the small
26 and minority business financial assistance program established by
27 section 10 of this chapter.

28 Sec. 9. As used in this chapter, "small business" has the meaning
29 set forth in IC 5-22-14-1. The term includes an independently
30 owned and operated business that is operating under a franchise
31 from another business.

32 Sec. 10. The small and minority business financial assistance
33 program is established to provide loans and loan guarantees under
34 this chapter.

35 Sec. 11. The authority shall do the following:

- 36 (1) Establish and implement the policies and procedures to be
- 37 used in the administration of this chapter.
- 38 (2) Enter into contracts and guarantee agreements, as

necessary, with approved lenders, state governmental agencies, corporations, and United States governmental agencies, including agreements for federal insurance of losses resulting from death, default, bankruptcy, or total and permanent disability of borrowers.

(3) Establish criteria for awarding loans and loan guarantees from the fund, and require that any loan or loan guarantee under this chapter be disbursed and repaid in the manner that the corporation prescribes.

(4) Accept, use, and disburse federal funds made available to the corporation by the federal government for the purposes described in this section.

(5) Take, hold, and administer, on behalf of any loan program and for purposes of this chapter, property and money and the interest and income derived from the property and money either absolutely or in trust.

(6) Accept gifts, grants, bequests, devises, and loans for purposes of this chapter.

(7) Adopt bylaws to implement this chapter.

Sec. 12. (a) An obligation of the program for losses on loans resulting from death, default, bankruptcy, or total or permanent disability of borrowers is not a debt of the state but is payable solely from the fund.

(b) The making of loans from the fund does not constitute the lending of credit by the state for purposes of any other statute or the Constitution of the State of Indiana.

Sec. 13. From the fund, the authority shall:

(1) guarantee loans made by approved lenders upon conditions prescribed under this chapter to small or minority businesses to assist them in the operation or expansion of their businesses; and

(2) make loans upon conditions prescribed under this chapter to small or minority businesses for the purpose of assisting them in the operation and expansion of their businesses.

Sec. 14. In making loans from the fund, the authority shall require that the recipients of the loans receive training in business and financial management skills, including the preparation and filing of state and federal tax returns.

1 **Sec. 15. (a) The training required by section 13 of this chapter**
 2 **may be provided by consultants or staff members of the authority.**
 3 **The authority shall establish standards for the training.**

4 **(b) The duties of the consultants or staff members are as**
 5 **follows:**

6 **(1) To provide training in business and financial management**
 7 **techniques to the recipients of loans under this chapter when**
 8 **directed by the authority.**

9 **(2) To oversee the fiscal operations of recipients of loans**
 10 **under this chapter for at least one (1) year following the**
 11 **receipt of the loan.**

12 **(3) To provide fiscal management assistance when necessary**
 13 **for at least one (1) year following the receipt of the loan,**
 14 **including assisting recipients in filing state and federal tax**
 15 **returns."**

16 Page 8, between lines 40 and 41, begin a new paragraph and insert:

17 "SECTION 7. IC 26-1-1-301, AS ADDED BY P.L.143-2007,
 18 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2009]: Sec. 301. (1) Except as **provided in IC 26-2-5.5 or as**
 20 otherwise provided in this section, if a transaction bears a reasonable
 21 relation to Indiana and also to another state or nation, the parties may
 22 agree that the law either of Indiana or of the other state or nation shall
 23 govern their rights and duties.

24 (2) In the absence of an agreement under subsection (1), and except
 25 as provided in subsection (3), IC 26-1 applies to transactions bearing
 26 an appropriate relation to Indiana.

27 (3) If any of the following provisions specifies the applicable law,
 28 that provision governs, and a contrary agreement is effective only to the
 29 extent permitted by the law so specified:

30 (a) IC 26-1-2-402.

31 (b) IC 26-1-2.1-105 and IC 26-1-2.1-106.

32 (c) IC 26-1-4-102.

33 (d) IC 26-1-4.1-507.

34 (e) IC 26-1-5.1-116.

35 (f) IC 26-1-8.1-110.

36 (g) IC 26-1-9.1-301 through IC 26-1-9.1-307."

37 Page 32, after line 11, begin a new paragraph and insert:

38 "SECTION 27. IC 26-2-5.5 IS ADDED TO THE INDIANA CODE

AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]:

Chapter 5.5. Construction or Design Contract; Choice of Laws Provision Not Enforceable

Sec. 1. This chapter applies only to contracts entered into, extended, or renewed after June 30, 2009.

Sec. 2. Except as provided in section 3 of this chapter, if a construction or design contract purports to choose the laws of a jurisdiction other than Indiana to govern the contract, the choice is not enforceable.

Sec. 3. If any of the following provisions specifies the applicable law, that provision governs to the extent it conflicts with section 2 of this chapter:

- (1) IC 26-1-2-402.**
- (2) IC 26-1-2.1-105 and IC 26-1-2.1-106.**
- (3) IC 26-1-4-102.**
- (4) IC 26-1-4.1-507.**
- (5) IC 26-1-5.1-116.**
- (6) IC 26-1-8.1-110.**
- (7) IC 26-1-9.1-301 through IC 26-1-9.1-307.**

SECTION 28. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 5-28-17; IC 5-28-18; IC 5-28-19; IC 5-28-20.

SECTION 29. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "authority" refers to the Indiana housing and community development authority established by IC 5-20-1-3.

(b) As used in this SECTION, "corporation" refers to the Indiana economic development corporation established by IC 5-28-3-1.

(c) The corporation and the authority shall cooperate with the authority to transfer the following from administration by the corporation to administration by the authority:

- (1) Small business development under IC 5-28-17 (before its repeal by this act).**
- (2) The microenterprise partnership program fund under IC 5-28-18 (before its repeal by this act).**
- (3) The microenterprise partnership program under IC 5-28-19 (before its repeal by this act).**
- (4) The small and minority business assistance program under**

1 **IC 5-28-20 (before its repeal by this act).**

2 **(d) After June 30, 2009, and before July 15, 2009, the**
 3 **corporation shall transfer money in microenterprise fund under**
 4 **IC 5-28-18 (before its repeal by this act) to the authority for**
 5 **deposit in the microenterprise partnership program fund under**
 6 **IC 5-20-7 (as added by this act). In addition, on or before July 15,**
 7 **2009, the corporation shall transfer to the authority all the**
 8 **accounting records and related information pertaining to the**
 9 **microenterprise partnership program fund under IC 5-28-18**
 10 **(before its repeal by this act).**

11 **(e) After June 30, 2009, and before July 15, 2009, the**
 12 **corporation shall transfer to the authority all files pertaining to**
 13 **loans, grants, or applications for loans or grants under the**
 14 **following programs:**

15 **(1) Small business development under IC 5-28-17 (before its**
 16 **repeal by this act).**

17 **(2) The microenterprise partnership program fund under**
 18 **IC 5-28-18 (before its repeal by this act).**

19 **(3) The microenterprise partnership program under**
 20 **IC 5-28-19 (before its repeal by this act).**

21 **(4) The small and minority business assistance program under**
 22 **IC 5-28-20 (before its repeal by this act).**

23 **(f) After June 30, 2009, and before July 15, 2009, the**
 24 **corporation shall assign loans held by the corporation under the**
 25 **following to the authority:**

26 **(1) Small business development under IC 5-28-17 (before its**
 27 **repeal by this act).**

28 **(2) The microenterprise partnership program fund under**
 29 **IC 5-28-18 (before its repeal by this act).**

30 **(3) The microenterprise partnership program under**
 31 **IC 5-28-19 (before its repeal by this act).**

32 **(4) The small and minority business assistance program under**

- 1 **IC 5-28-20 (before its repeal by this act).**
- 2 **SECTION 30. An emergency is declared for this act."**
- 3 Renumber all SECTIONS consecutively.
 (Reference is to SB 501 as printed February 6, 2009.)

and when so amended that said bill do pass.

Representative Bardon